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A F T E R N O O N S E S S I O N

2:07 p.m.

THE VIDEO OPERATOR: We're back on the record. The time on the screen is 2:07:51.

D E N I S E R. D O N A H E R,

resumed, having been previously duly sworn, was examined and testified further as follows:

CONTINUED EXAMINATION

BY MR. KILLORY:

02:07:56 Q. Ms. Donaher, the blend study number 10 that we were discussing this morning was prepared at whose request?

02:08:12 A. It was an assignment that was given to me by my boss.

02:08:16 Q. And who was your boss at that time?

02:08:18 A. I believe it was Robert Mullins.

02:08:24 Q. In giving you that assignment what did he say to you?

02:08:32 A. He said that -- or something along these lines, that a series of these had been done with some frequency, and he would like me to coordinate the processing of tobacco in subsequent testing and reporting of the results

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to make a blend component study. That would be number 10.

Q. And what other departments did you interact with in performing that coordination function?

A. R&D was the department, so it was ~~then~~ within R&D.

Q. Was there any further description from your boss as to the purpose of the study?

A. Not that I can recall.

Q. To whom did you send study number 10?

MR. MURPHY: I object to the form. You can answer.

A. Are you referring to the report?

Q. Yes.

A. It was written as a special report. I don't know who got copies, if ~~any~~ anyone did, but it would be in R&D central files.

Q. But when you were given the assignment by your boss, he did not direct you to send it to any particular individual after you had completed the study?

A. That's correct.

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02:10:10 Q. Did you input the data that you collected for study number 10 into a computer program of any sort?

02:10:18 A. It was in typed format, but that's -- no, not a program as such.

02:10:40 Q. You mentioned this morning a computer program as to stem utilization that you worked on. Was that -- when was that?

02:10:54 A. That was during an approximately one-month period in December of 1988.

02:11:00 Q. And what was that computer program?

02:11:04 A. Other than what I --

02:11:06 Q. My recollection is you testified it had to do with stem utilization.

02:11:12 A. Yes.

02:11:18 Q. Was the program designed to project something with regard to stem utilization?

02:11:22 MR. MURPHY: I object to the form of the question. I think it's a bit vague. But if you understand it, you can answer.

02:11:30 A. What I recall was that there were a number of issues regarding our usage of different types of stem. And the program would allow a user to look at pounds of inventory of stems, of

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bright or burley stems, ~~of~~ in inventory, and look at usage in our products and see how things balanced out.

Q. Would the program enable you to calculate a projection based on hypothetical variations in the stem utilization -- in the stems utilized?

MR. MURPHY: I object to the form of the question. I think I know what you're trying to ask her, Ted, but that's a pretty jumbled question.

Q. Did the stem utilization program enable you to look at past usage of stems?

A. I'm very vague about what the details of that program were. I spent a short time working on it. I think it was written for what-if scenarios, what if we wanted to try and do this, what if we wanted to do that, how much of each type of stem would be available or left, or that kind of thing.

Q. Do you recall what any of those what-if scenarios were?

A. No, I don't.

Q. Do you know if this computer program

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has been used since the time you worked on it?

A. No, it hasn't.

Q. It has not?

A. It has not.

Q. You've been at Park 500 since December of 1991; is that correct?

A. That's correct.

Q. You have enumerated a number of projects that you worked on this morning. Have all of those projects related to the production of RL at Park 500?

MR. MURPHY: I object to the form of the question. I think her testimony is clear. But you can answer the question.

A. Obviously the steam project I referred to, steam is used in the manufacture of RL, but my effort was not directed in any way at the manufacture of RL.

Q. My question is, the steam is used in the RL -- by my definition in the last question, I meant to include that as part of the RL process. Is there anything you worked on while at Park 500 that did not relate to the production of RL?

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MR. MURPHY: Objection to form. You can answer the question.

A. All my projects related in some way to production of RL, but not necessarily RL that was -- would be used in cigarettes sold to the consumer.

Q. Which of your projects involved RL for cigarettes not to be sold to the consumer?

MR. MURPHY: Objection to form. You can answer the question.

A. Some of my work with the Wiegand evaporator was not related to RL put in the product. The Bermuda stem processing wasn't connected to production of RL in any way. I think what I said earlier maybe made that a little bit unclear.

Q. Anything else that you can recall that did not relate to the production of RL for cigarettes sold to the public?

MR. MURPHY: I object to the form of the question. You can answer.

A. Another one I just recall sitting here was the centrifuge sludge project.

Q. In what way did that not relate to

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cigarettes sold to the public?

MR. MURPHY: I object to the form of the question.

Q. Do you understand the question?

MR. MURPHY: If you understand the question, you can answer it.

A. It was simply a short test. A short test, and no product was shipped anywhere.

Q. So the results of that test were never included, the product resulting from that test was never included in a final product that was shipped from Park 500?

A. That's correct.

Q. In the course of your work, have you become familiar with the overall RL production process on the three lines at Park 500?

MR. MURPHY: I object to the form of the question. You can answer the question.

A. I'm generally aware or knowledgeable about some of the areas of the process, yes.

Q. Do lines 1 and 2 at Park 500 use a different process than line 3?

A. In principle, the process is the same. There is some equipment that's slightly

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different and some of the setup is slightly different.

Q. What equipment is different?

MR. MURPHY: Again, between lines 1 and 2, versus line 3?

MR. KILLORY: Yes.

A. The ones that I'm aware of are the pulping operation or the pulper; the pressing operation, have different types of presses between the two lines; the centrifuges are a different type but perform the same function; the evaporator, evaporators are slightly different but perform the same function.

That's all I can think of.

Q. How are the pulpers on line 3 different from the pulpers on line 1 and 2?

A. In general concept I'll tell you what I know. The pulper on line 3 would be considered to be more continuous. And the pulpers on line 1 and 2 are batch.

Q. What do you mean by "batch"?

A. That a certain quantity of feedstock is processed in a batch.

Q. And the feedstock I take it is the

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raw materials?

A. Yes, the raw materials that make up the feed to the process.

Q. Does line 3 have more than one pulper?

A. Yes, it does.

Q. How many presses, as in piece of equipment, are there on line 3?

MR. MURPHY: I object to the form of the question. You can answer the question.

A. What I was going to ask is, are you talking about how many presses there are right now, or what time period are you talking about?

Q. How about as of March of 1984?

MR. MURPHY: 1984 or '94, Ted?

MR. KILLORY: '94, excuse me, thank you.

MR. MURPHY: As of March 24, 1994.

A. I believe there are four operating. I don't know exactly. There's some that are physically there that aren't in operating condition.

Q. Do the two separate pulpers on line 3 feed separate presses?

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MR. MURPHY: I object to the form. You can answer.

A. I don't know of any situations where RL was -- or feedstocks was fed from two pulpers at the same time. And I don't know exactly what the piping configuration is. But I've never heard of that happening.

Q. So you're not aware of any situation where two RL products were run through line 3 presses at the same time?

MR. MURPHY: I object to the form. You can answer if you understand the question.

A. I think what I said was that I'm not aware of product coming from two pulpers to either the same or different presses.

Q. I see. You're not aware of a situation where both pulpers were -- on line 3, were operating at the same time?

A. I'm not aware that they were operating at the same time processing feedstocks into the RL process.

Q. If Philip Morris wanted to make two distinct types of RL on line 3 at the same time, do you know if that could be done?

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MR. MURPHY: I object to the form of the question. I think there is no foundation for the question. But if you want to -- if you understand the question, you can answer it.

A. I don't see how that's possible, because upstream of the presses you have single -- you have one tank that everything must go through.

Q. And what is that tank?

A. The stock chest. For ~~Or~~ the fiber.

Q. You talked very briefly this morning about the ART process, as you described it. When did you first become aware of the ART process?

MR. MURPHY: I object to the form. You can answer.

A. I don't know. I don't know when I became aware of it one way or the other.

Q. Do you recall when you first heard of the Bermuda Hundred plant?

A. Probably after I had returned to R&D in the late '80s. But I can't be more specific than that, because I don't have any knowledge of the time frames of the ART process.

Q. Do you recall that we discussed the

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stems generated by the ART process this morning?

A. Yes, I remember.

Q. Did those stems have higher nicotine levels than when found in nature?

MR. MURPHY: I object to the form. You can answer.

A. The nicotine levels in nature of tobacco varies -- varies greatly.

Q. Do you know whether stems -- what the level of nicotine in ~~level of~~ stems is in natural state?

A. No, I don't.

Q. Do you have any understanding as to whether the nicotine levels of the stems that were generated by the ART process were higher than before those stems were used in the ART process?

MR. MURPHY: I object to the form. You can answer.

A. In fact in the process you're depositing nicotine from lamina onto stems. By definition they had to be higher on average than they were when they started.

Q. So your answer is yes to my preceding question?

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A. They're higher than what they were when they started, those specific stems, yes.

Q. Do you know whether any of the ART stems, the stems generated in the ART process, were ever used in any Philip Morris cigarettes that were sold to the public?

A. Not to my knowledge.

Q. Do you know for sure one way or the other?

A. I don't know for sure one way or the other.

Q. Have you ever seen any document that reflects a decision not to use any of the ART stems in any cigarette sold by Philip Morris to the public?

A. I don't recall seeing any such document.

Q. Do you know who would have made a decision whether or not to include ART stems in cigarettes sold to the public by Philip Morris?

MR. MURPHY: I object to the form. You can answer the question.

A. What form are we -- what form are we talking about ART stems?

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02:27:04 Q. The ART stems that were higher in
02:27:10 nicotine generated by the ART stem process.
02:27:14 MR. MURPHY: I still object to the
02:27:16 form. But you can answer the question.
02:27:18 A. No, I don't know who would be
02:27:20 responsible for making that decision.
02:27:30 Q. Apart from any consultations --
02:27:36 strike that.
02:28:02 Apart from consultations with
02:28:02 counsel, have you ever been asked by anyone at
02:28:06 Philip Morris to gather documents relating to ART
02:28:10 stems?
02:28:10 MR. MURPHY: I object to the form of
02:28:12 the question. You can answer the question.
02:28:16 A. Not that I know of.
02:28:16 Q. Did you ever receive a request from
02:28:18 David Merrill to collect any ART stem documents?
02:28:24 A. No, I haven't.
02:28:28 Q. Do you know who David Merrill is?
02:28:30 A. I have a general idea who he is.
02:28:30 Q. Who is he?
02:28:32 A. He's a manager of an environmental
02:28:40 group.
02:28:50 Q. Are you aware of any production of RL

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using the high nicotine level ART stems?

MR. MURPHY: I object to the form of that question. I think the characterization may not be accurate. But in any event, you can answer the question, if you understand it.

Q. Earlier when I used the phrase "ART stems," you said, well, which ART stems? And I was intending to be clear. I'm talking about the ART stems as generated from the ART process.

A. I'm generally aware of a test that was run where ART stems were tried in the RL feedstocks.

Q. And how are you aware of that test?

A. When I was given the assignment to dispose of the stems from Bermuda Hundred, I was given some background information. That was one of the pieces of background information that was given to me.

Q. And who gave that background information to you?

A. To the best of my knowledge, my boss let me know what series of things had been tried with the ART stems so I wouldn't be repeating them and would know where my starting point was

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to determine what to do with them.

Q. When you say your boss in this context, does that refer to Dawn Saunders?

A. That's correct.

Q. Do you know what the results were of that test of ART stems?

A. I heard that the product that was produced during that test run did not taste -- was not subjectively acceptable.

Q. Do you know who made that determination that the product was not subjectively acceptable?

A. No, I don't.

Q. Who is your source of information for what you just said, that it was -- you heard that it was not subjectively acceptable?

MR. MURPHY: I object to the form. You can answer the question.

A. I recall that it was my boss.

Q. Have you ever seen any document reflecting that conclusion, that the product was not subjectively acceptable?

A. I don't recall one way or the other.

Q. Have you ever heard of any other

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reason why ART stems were not used in the RL process for products sold to the public?

A. No, I haven't.

Q. Do you recall when you were first requested to assist in the ART stem disposal project?

A. It was approximately January 1992.

Q. Was that conversation with Ms. Saunders?

A. Yes.

Q. To the best of your recollection, what do you recall Ms. Saunders requested you to do in connection with the ART stem disposal?

A. She asked me to devise a method or process that was simple, to remove the solubles from the ART stems so that the solubles could be treated by wastewater treatment and the fiber would be sent to the landfill. Or that was one of the proposals that she suggested to me to investigate.

Q. Did she suggest any other proposals?

A. Not that I recall.

Q. You mentioned in an earlier response that Ms. Saunders referenced the earlier tests of

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RL using ART stem. Do you recall giving that answer?

A. Yes.

Q. And I believe you said -- I don't have the computer screen page in front of me, but I believe you said that she mentioned that so that you wouldn't be going over the same ground; is that correct, or substantially what she said?

MR. MURPHY: I object to the form. I think ~~her~~ the testimony speaks for itself. But you can answer the question if you understand it.

A. The part -- she reviewed all background information of things that had been tried, and that was one of them, and then what the outcome or result was.

Q. Do you know what the total quantity of stems generated by the ART process was?

A. No, I don't know what the total quantity of stems was generated.

Q. Did Ms. Saunders give you any idea of the quantity of stems in giving you the assignment?

MR. MURPHY: Objection to form. Are you still asking as to the quantity of stems

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generated by the ART process?

MR. KILLORY: Yes.

MR. MURPHY: Or are you asking a different question?

MR. KILLORY: Yes.

A. We didn't talk in terms of how much was generated by the ART process.

Q. Wouldn't the quantity of stems have some connection to what process one would ultimately use to dispose of them?

MR. MURPHY: I object to the form of the question. You can answer the question.

A. Can you rephrase it?

Q. Would not the quantity of stems affect what process you ultimately would choose to dispose of them?

MR. MURPHY: Same objection. You can answer.

A. I mean, yes, it certainly would. She told me a quantity that needed to be disposed of.

Q. What quantity did she tell you?

A. Approximately 1 and a half million pounds. That's very approximate. I don't recall

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the exact quantity.

Q. At the time of receiving this initial assignment from Ms. Saunders, do you know whether ART stems were still being generated by the Bermuda Hundred facility?

A. To the best of my knowledge, the plant was winding down, and no, that they weren't being generated on a regular basis. But I'm not positive.

MR. KILLORY: Mark the next exhibit, please.

(Donaher Exhibit 3 for identification, ART stems.)

Q. Ms. Donaher, the reporter has just handed you a one-page document, handwritten document entitled "ART stems." It was produced by Philip Morris. The Bates stamp number is PB 118507. The production number is 2031410009.

Do you recognize the handwriting on this document?

A. No, I don't.

Q. It's not your handwriting?

A. No, it's not.

Q. There's a reference to PM-80s at the

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top of the document, and then further down it says, "Net weight per PM-80, 400 to 500 pounds."

Are you familiar with what a PM-80 is?

A. Yes.

Q. What is it?

A. It's a large cardboard box which is commonly used to store tobacco.

Q. Do you know whether it contains approximately 400 to 500 pounds of tobacco?

A. That would vary greatly depending on the type of tobacco.

Q. How about ART stems? Do you know if it would contain 400 to 500 pounds of ART stems?

A. I don't know.

Q. So as best you can recall, this handwritten note does not reflect the conversation you had with Ms. Saunders or anyone else?

MR. MURPHY: Objection to form. Lack of foundation. I don't think, Ted, you've even asked her whether she's ever seen this document before or --

MR. KILLORY: I asked her whether she

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recognized the handwriting.

MR. MURPHY: That's a different question.

A. I don't recognize the handwriting, no.

Q. Have you ever seen it before?

A. No, I haven't.

Q. Now could you answer the question I posed?

A. Which is?

Q. As best you can recall, this handwritten note does not reflect the conversation you had with Ms. Saunders or anyone else?

MR. MURPHY: I object to the form of the question. I still think there's a lack of foundation. You can answer the question.

A. This document does not appear to be contained in the conversation that we had, no.

Q. Were you ever aware that there were more than 6,000 PM-80s of ART stem generated by the ART process?

MR. MURPHY: Objection to form. You can answer the question.

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A. I don't have any knowledge or information about quantities of stems involved other than what I was asked to dispose of.

Q. And that's Ms. Saunders mentioned 1 and a half million; is that correct?

A. Yes.

Q. After your conversation with Ms. Saunders, what was your next step in carrying out the project relating to disposal of ART stems?

A. The biggest issue that I focused on was what type of press or what kind of means could be used to separate the solubles from the fiber so as to squeeze the juice out.

Q. Did you ever test a method of disposal that did not involve separating the juice from the fiber?

MR. MURPHY: I object to the form. You can answer the question.

A. Not that I know of.

Q. And how did you make a determination as to what type of press to use in the ART stem disposal?

A. It was a matter of being able to

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identify and get a piece of equipment in that would meet the needs in a reasonable time frame, reasonable cost.

Q. Was a new piece of press equipment purchased for this purpose?

A. A piece of press equipment was rented.

Q. In addition to the existing press equipment at the Park 500 facility?

A. That's correct.

Q. Where was this press equipment installed?

A. It was set up in line 3 blending.

Q. Could you describe the press equipment?

A. It simply was a dewatering screen similar to a screw conveyor or a screw conveyor -- or screw press -- not conveyor -- screw press of sorts.

Q. It was similar to a screw --

A. It was a type of screw press. I was getting my words mixed up here.

MR. KILLORY: Could you mark that as the next exhibit, please.

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(**Donaher Exhibit 4** for identification, test request form.)

02:43:50 Q. Ms. Donaher, the reporter has handed you Donaher Exhibit Number 4, which is a test request form, one page, bearing the Bates stamp PB 118535, production number 2031410045. It's a test request form, "Production, quality and technical services."

02:44:20 It's not the clearest handwriting in terms of legibility, but it appears to have your name as the initiator of the test. Is that you at the top of the form?

02:44:28 A. Yes.

02:44:34 Q. The date appears to be 1/20/92. Do you recall whether that is correct?

02:44:36 A. That's what it says here.

02:44:40 Q. That is what it says? Okay. The purpose of the test reads, "To determine if the" -- is that speichim?

02:44:50 A. I call it speichim.

02:44:52 Q. S-P-E-I-C-H-E-I-M -- I mean, I-M, no E. Although I like your pronunciation.

02:44:56 MR. MURPHY: I knew you would. That's why this spelling is helpful.

02:45:00

02:45:02

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S-P-E-I-C-H-I-M.

Q. "To determine if the speichim dewatering press is capable of" -- can you help me out with the next word?

MR. MURPHY: Ted, it might be helpful if you ask Denise whether she's ever seen this document before. I mean, I assume you're not just asking her to help you read handwriting.

Q. Have you ever seen this document before?

A. I believe I wrote it.

Q. That's what I thought. Do you recognize the word that I'm having trouble reading from the copy that was produced to us? Is that "achieving"?

A. That would make sense.

Q. In the context here.

A. But I can't be sure that's what it says.

Q. Then the figures that follow it, it looks like "Greater than 20 percent T," and then I can't make out --

A. That would be TS.

Q. TS. And what does TS stand for in

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that context?

A. Total solids.

Q. "In processing of ART stems." So it reads, "To determine if the speichim dewatering press is capable of achieving greater than 20 percent TS," for total solids, "in processing of ART stems"; is that correct?

A. That's correct.

Q. Thanks for your help. What was the test that's reflected in this document?

MR. MURPHY: I object to the form. You can answer the question.

A. I'm not sure -- what was the purpose -- are you asking me to decipher the purpose?

Q. Beyond the literal words that are written under "Purpose," yes. Did you participate in this test?

A. Yes, as far as I know.

Q. Do you know what the result of the test was?

A. The result of the test was that the fiber that exited as cake from the press ~~from the press as cake~~ was greater than 20 percent total solids.

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Q. What was the ~~high core~~ Hycor Rotoshear that's referred to in part C?

A. The Rotoshear is something that we tried one time in setting up this process. It's a rotating screen that is used to separate fiber and liquid.

Q. When you say "liquid" in this context, is liquid the same as the solubles?

A. That's correct.

Q. And were references at -- 25 GPM, what does GPM stand for?

A. Gallons per minute.

Q. Was this process reflected in Exhibit 4 ultimately the one used in the ART stem disposal process?

A. No.

Q. And why not?

A. The Rotoshear was not used.

Q. Why was it not used?

A. Didn't provide any assistance, was an extra complicating step.

Q. Was its hoped-for purpose at the time of this test to assist in the separating of the solids from the solubles?

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MR. MURPHY: I object to the form. You can answer.

A. It was an extra step that would assist in raising the total solids. If It was necessary.

MR. KILLORY: Would you mark this.

(Donaher Exhibit 5 for identification, test request form with pages attached.)

Q. Ms. Donaher, would you take a look at what the reporter has marked as Exhibit 5 -- is that correct? It's another test request form with pages attached. The Bates stamp number is PB 118464, with the last page PB 118471. The production numbers corresponding to those Bates numbers are ~~20314180084~~ 2031410084 and 2031410091.

Ms. Donaher, this test request form again has your name as initiator of the test on the front page. Was this prepared by you?

A. Yes.

Q. And you are also noted as a designated coordinator of the test, one of the designated coordinators ~~as well~~. Is that correct? as well

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A. Yes, it is.

Q. Does this test request form reflect a different test from the one reflected in the preceding exhibit?

A. Yes, it would appear so.

Q. In what manner was it different?

A. The ~~high-core~~ Hycor screen Rotoshear was not part of this test. And this also has extra steps with the liquor going through additional tanks prior to going to the drain, to wastewater treatment.

Q. Do you know whether the pages that are attached to the cover sheet -- this is how this document was produced to us, I believe. Do you recall whether the pages that are attached to the test request form as they appear in Exhibit 5 were originally attached to this test request form?

MR. MURPHY: I object to the form. You can answer.

A. Based on the verbiage that I see here in the test request, I would say yes, they were attached.

Q. If you could turn to the diagram on

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the third page of Exhibit 5, it's PB 118466, or production number 2031410086. Is this a -- did you prepare this diagram?

A. Yes.

Q. Is this a diagram of the test process reflected in the prose of this test request form?

A. Are you referring to the second page, or the same general?

Q. The same general test.

A. Yes, it is.

Q. Where is the stock surge tank? There's tank number 1 and tank number 2 reflected on that diagram. Where are those physically located?

A. They're physically located in line 3 stock prep.

Q. How many stock surge tanks are there on line 3?

A. There are two that I'm aware of.

Q. And at the time this test was run, were there two as well?

A. Yes.

Q. And were both stock surge tanks used

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in the ART stem disposal test reflected in Exhibit 5?

A. Yes, they were used in this test.

Q. The test request form, Exhibit 5, calls for the scheduling of the test to begin Monday, I'm reading from the first page, "Scheduled to begin Monday, February 17, at 0800," which I take to be 8:00 a.m.; is that correct?

A. Yes.

Q. "For seven days providing all maintenance" -- maybe it got cropped off. "Maintenance install is completed." "Maintenance installation," do you know if that's what that was intended --

A. Yes, that was the intent.

Q. Do you know if this test in fact occurred over that seven-day period?

A. I know the test occurred. I don't know whether -- I can't recall whether it lasted the full seven days, or --

Q. While -- I'm sorry.

A. -- or whether it occurred on those exact dates.

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Q. While the test was going on, was any RL being produced on line 3?

A. Yes, it was.

Q. Would that RL use the stock surge tank 1 or stock surge tank 2?

A. No, it would not.

Q. Why not?

A. I have no knowledge of those stock surge tanks ever being used for RL.

Q. What purpose, apart from the ART disposal test, did the stock surge tanks on line 3 serve?

MR. MURPHY: I object to the form of the question. I think the question assumes that there was another purpose served. You can ask the witness a proper question.

Q. Do you understand the question?

A. I believe they were original equipment when that line was built. I don't know what the intended purpose was. And I have never seen ~~any~~ them used as long as I was at the plant.

Q. They were used for this test; is that correct?

A. Yes, other than for this ~~question~~ test.

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02:56:36 Q. What goes on in a stock surge tank?

02:56:40 MR. MURPHY: I object to the form.

02:56:44 Q. Literally, what happens to the materials that are pumped to the stock surge tank?

02:56:48 A. Are you talking about in the context of this test?

02:56:50 Q. That's right.

02:56:52 A. In this test, the stock surge tanks were strictly used as a storage, metering role, because at the time there was a concern that our wastewater treatment facility could not handle 25 gallons per minute of this liquor, the liquor from the stems, without upsetting the balance in the wastewater treatment plant.

02:57:22 So the thought was that we would run it and then meter it at 8 gallons a minute, because the process itself or the dewatering screen could not be run at such a rate that you could get 8 gallons a minute through it.

02:57:42 Q. Did 8 gallons per minute turn out to be the rate at which the wastewater treatment could handle the liquor coming from the ART stem disposal?

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02:57:50 A. No --

02:57:52 MR. MURPHY: I object to the form of the question. You can answer the question.

02:57:58 A. No, the wastewater treatment plant was able to handle the full rate that was produced out of the dewatering screen without the use of stock surge tanks.

02:58:10 Q. And what rate is that?

02:58:10 A. Approximately 25 gallons per minute.

02:58:12 Q. Were the stock surge tanks discontinued following this test as part of the ART stem disposal process?

02:58:20 MR. MURPHY: Objection to form. You can answer.

02:58:24 A. They were discontinued. I don't know exactly the time frame.

02:58:30 Q. But the stock surge tanks ultimately were determined to be not necessary for the ART stem disposal process?

02:58:36 A. That's correct.

02:58:44 Q. There's a reference on the second page of Exhibit 5 to a TME, and I've seen it elsewhere. What is a TME?

02:58:56 A. It stands for tramp material

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eliminator.

Q. What is a tramp material eliminator?

A. Any time you have a process that has tobacco you're going to have contaminants, foreign material, that come as a natural substance, so it is a means of removing them.

Q. And the material removed by the TME goes where?

A. Goes to the trash.

Q. When you say "trash," literally, what do you mean?

A. Literally, I don't know.

Q. How about the solids produced by the process reflected in Exhibit 5? Where do those go?

MR. MURPHY: I object to the form of the question. If you understand the question, you can answer it.

A. Where do they go or where did they go?

Q. Where did they go?

A. As the picture reflects, they went into a dumpster.

Q. And what happened to those solids

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after being put in the dumpster?

A. They were taken to the landfill.

Q. Do you know which landfill?

A. I don't know -- Shoosmith Brothers. I don't know the physical location.

Q. Is Shoosmith Brothers a company?

A. Yes, it is.

Q. Is it one particular landfill?

A. I believe they own a series. I don't know.

Q. What's the basis for your understanding that it was the Shoosmith Brothers landfill?

A. The Shoosmith Brothers I understand does most of the waste hauling from the plant.

Q. Do you know if any records were kept of the quantity of solids that were disposed of through the landfill?

A. I believe there were some log sheets that the operators filled out.

Q. The last page, the last two pages of Exhibit 5 are, respectively, page PB 118470 is a blending attendant log sheet, page PB 118471 is in part an ART stem GL log sheet, subheading,

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"Dumpster data, pump data."

Would either of those be the log sheet that you're referring to for recording the quantity of solids disposed of in the ART stem disposal test?

MR. MURPHY: I object to the form. You can answer.

A. Are we still talking about this specific test?

Q. That's right.

A. Are we talking about this test, or are we talking about the ultimate --

Q. Let's start with this test.

A. The table entitled "Dumpster data" would have been where this data went to be recorded.

Q. Now, would that record the total solids put in the dumpster or actually delivered to the landfill?

MR. MURPHY: Again, this is first with respect to the test itself in 1992?

MR. KILLORY: That's right. That's right.

A. Total solids would refer to the

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03:02:40 percent total solids that were measured on that
03:02:44 dumpster. The tobacco -- not tobacco. The fiber
03:02:48 in that dumpster.
03:02:52 Q. And the tobacco weight column would
03:02:54 record what?
03:02:58 A. Would be the weight of the washed
03:03:02 stems, whatever you want to call them, that went
03:03:04 in the dumpster.
03:03:08 Q. Expanding to the ART disposal process
03:03:12 ultimately chosen, were these the forms that were
03:03:22 used to record the solids disposed of?
03:03:24 MR. MURPHY: I object to the form.
03:03:24 You can answer the question.
03:03:26 A. I don't recall exactly what forms
03:03:28 were used and filled out during that time
03:03:40 period. It would seem that a report similar to
03:03:42 this was filled out.
03:03:44 Q. Do you know where the landfills in
03:03:50 which the solids ultimately disposed of were
03:03:52 disposed?
03:03:54 A. No.
03:03:54 Q. Was it the same company you referred
03:03:56 to before?
03:04:00 MR. MURPHY: Objection to form. I

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think the question is ambiguous.

Q. Do you understand my question?

A. Shoosmith Brothers basically hauled all the waste.

Q. Not just the test but also, as far as you know, the disposal from the ultimate ART disposal process?

A. As far as I know, yes.

Q. Do you know who would maintain the records of solids that were landfilled as a result of the ART disposal process?

A. No, I don't know who would have those records.

Q. Again, on the last page of Exhibit 5, you said the total solids would reflect the percentage of solids taken out in this test from the ART stems; is that correct?

MR. MURPHY: I object to the form of the question. If you understand the question, you can answer.

A. The question doesn't make sense.

Q. Explain to me -- I did not understand your prior response as to the tobacco weight column and the total solids column. Could you

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explain again what -- obviously -- I should be much more basic.

The time category, am I correct that that reflects the time at which the solids were put in the dumpster?

A. That would be the time that a dumpster was being emptied.

Q. Being emptied into what?

A. A big dumpster. Little dumpster into a big dumpster.

Q. And the tobacco weight category right beside the time category, what would that reflect?

A. The total weight minus the weight of the dumpster of the fiber, wash stems, that were being disposed of.

Q. That were in the dumpster?

A. That were in that dumpster.

Q. And how would that weight be taken?

MR. MURPHY: Objection to form. You can answer.

A. I believe they used a scale.

Q. To the best of your understanding, was an actual weight taken?

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A. Yes.

Q. How about total solids? What does that column reflect?

A. Total solids or percent total solids is a measurement of the total solids, percent total solids of that material.

Q. When you say "that material," in that response --

A. In the dumpster. The material in the dumpster contains the stems, stem fiber, and water.

Q. So it would be a percentage figure under total solids reflecting the percentage of the nonwater components of the material in the dumpster?

MR. MURPHY: I object to the form of the question. You can answer it.

A. I don't know that you can say it's just nonwater components. It's -- total solids is basically if you took the material and put it in an oven, that's the percentage by weight that would be left.

Q. If you evaporated off the liquids; is that correct?

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MR. MURPHY: I object to the form of the question.

Q. When you refer to putting it in the oven, were you referring to evaporating off the liquids?

A. Drying it.

Q. Is there any liquor still in the -- was there any liquor in the materials disposed of in the dumpster?

MR. MURPHY: I object to the form of the question. You can answer the question if you understand what he's asking you. I think he's shifting back and forth. Can you ask the question again?

Q. Was there any liquor in the dumpster materials?

MR. MURPHY: Again, I object to the form of the question.

Q. Do you understand the question?

MR. MURPHY: I think it lacks foundation. If you understand the question, you can answer it.

A. I mean, what I'm thinking is that the liquor -- liquor is what went in the sewer, and

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the stems, remaining materials, went in the dumpster.

Q. My question is, do you know whether all of the liquor went in the sewer?

MR. MURPHY: I don't understand what you mean by the word "liquor" here. I mean, that's what I think is causing problems, Ted.

Q. The solubles that are separated out -- let's go back to the chart. In the pulper, number 2, for this test of ART stem disposal, what materials were put in the pulper?

A. The ART stems and water.

Q. Were the ART stems separated from the soluble components in those ART stems during this process?

MR. MURPHY: I object to the form of the question. I think it's incomprehensible. But if you understand it, you can answer it.

A. Are you talking about in the pulper?

Q. No. In the process.

A. Can you repeat that, please?

Q. Sure. In the pulper at the start of the process you have water and you have the ART stems generated by the ART process; correct? The

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process diagramed on this page PB 118466 involves separating the stems from the soluble materials; is that correct?

MR. MURPHY: I object to the form of the question. I think it misstates her prior testimony. But you can answer the question.

A. I would view it more as a washing process.

Q. And so there is no liquor involved in this process?

A. "Liquor" is a generic term.

Q. It's a generic term for what?

A. For liquid -- a liquid that contains tobacco solubles.

Q. And the liquid that was separated out from the ART stems contains tobacco solubles; correct?

A. Yes.

Q. So that is liquor; correct?

A. Yes.

Q. That's what I thought.

MR. MURPHY: Was that just an editorial comment or was it a question?

Q. Would any of the liquor generated in

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the ART stem process -- did any of the liquor generated in the ART stem process end up with the materials that went in the dumpster?

MR. MURPHY: Again, I object to the form of the question. I think it's unclear. But you can answer the question if you understand it.

A. ~~Well,~~ When you're talking about generating liquor. The only thing that can generate liquor is the squeezing.

Q. And when the squeezing occurs, is all the liquor pulled out of the fiber materials?

A. All the free liquid that could be squeezed out of it, yes, was pulled out.

Q. And you earlier testified there is liquid in the dumpster; correct?

MR. MURPHY: I object to the form of the question. I don't think that was precisely her testimony.

Q. Is that inaccurate, that there is liquid in the dumpster as well?

A. There's not liquid that you could physically see in the dumpster.

Q. But you earlier said the percentage

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of solids as contrasted with the liquids was reflected in the total solids category; is that correct?

MR. MURPHY: I object to the form of the question. I think the question is being asked in an argumentative way. I think the testimony was quite clear as to --

MR. KILLORY: You've made your objection. You don't need to repeat her testimony.

Q. Do you understand the question?

MR. MURPHY: I'm not going to have my objections interrupted by you, Mr. Killory.

MR. KILLORY: That's a speaking, talking objection, and that's not permitted.

MR. MURPHY: You will not ~~interrupt~~ speak ~~me~~ while I am making objections or we will suspend this deposition.

MR. KILLORY: That's a favorite tactic.

MR. MURPHY: This is the 11th time you have tried to speak over my objections. I will put any objections that I have on the record of this deposition. If you do not intend to let

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me do so, then we will come back another day, because this is not going to be conducted in this fashion.

I was simply saying that I think that your question is slightly inaccurate in its description of her prior testimony as to what the total solids entry represents. Maybe we should go back over that again so that it's clear. Why don't you pose a proper question.

MR. KILLORY: Your silly threats are inappropriate in the context of this overall deposition. It's been conducted entirely properly by me.

MR. MURPHY: I will not have my objections spoken over, though. That is not appropriate. I am not saying you're conducting the deposition inappropriately in other respects. But I want my objections to be heard. I insist upon that. That is my right. It's the witness's right. Just put a proper question and we'll have an orderly deposition here.

Q. Are the total -- you earlier described the total solids column of the ART stem GL log sheet as reflecting the percentage of

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solids in the materials put in the dumpster. Is that correct?

A. Percentage of solids by weight.

Q. And what is the other material?

A. Anything that could be removed if you dried it.

Q. Did the stems run through presses in the course of the process described in Exhibit 5?

A. That's what this speichim dewatering screen is.

Q. So that is a press?

A. It is a press, yes.

Q. Do you know if there's any nicotine in the solids that go in the dumpster?

A. No, I don't.

Q. Do you know if there are any permits required for transporting materials containing nicotine?

A. I'm not aware of what the requirements are.

Q. Do you know if there are any requirements in permits requiring -- any permits required for the disposal of nicotine containing

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substances in landfill?

A. I'm not aware of it specifically, no.

Q. Did you ever have any discussions on the subject of disposing of the materials with anyone in the course of this test?

MR. MURPHY: I object to the form of the question.

Q. Did you have any discussions at all regarding the disposal phase?

MR. MURPHY: Mr. Killory, I think I made it clear a minute ago that I did not intend to have you interrupt my objections.

MR. KILLORY: I didn't know you were still making one. I apologize.

MR. MURPHY: I said I object to the form of the question. The witness may answer the question, but I think the question is somewhat vague and could be made more clear. If you are able to make it more clear, I would suggest that you do so.

Q. Did you ever have any conversations with anyone at Park 500 regarding the disposal of the solids in the landfills in connection with the ART stem disposal process?

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MR. MURPHY: I object to the question. It's extremely broad.

MR. KILLORY: That's intended --

MR. MURPHY: It would encompass any conversation with respect to this process, any conversation of any type, including the conversations that she has already testified to with respect to Ms. Saunders about how to do this process and what the process would be.

I think the question is almost unanswerable as posed. If you could ask a narrower question, please do so.

Q. Do you understand the question?

A. Going all the way back to when I was given the assignment, there was discussion that that was an option that could be looked at. And I was told that the requirement was that -- that the total solids needed to be greater than 20 percent for the material to be landfilled. That was the --

Q. Did you ever have any other discussions following your discussion with Ms. Saunders about landfill requirements?

A. Not that I recall, because my

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assignment was clear from the beginning.

Q. Did you ever have any discussions with anyone about the nicotine content of the materials being sent to landfill as a result of the ART stem disposal process?

A. Yes, I did.

Q. And what were those conversations?

A. I asked -- I asked my boss whether or not that was a concern or issue, and she suggested or agreed, I can't recall which, that we should pull a sample and check it.

Q. I'm sorry, I didn't hear --

A. That we should pull a sample and check the nicotine of the stems or fiber.

Q. When did this conversation occur?

A. I don't ~~remember~~ know the date.

Q. Was it during the testing phase of the process?

A. Yes, it was.

Q. And what --

MR. MURPHY: I'm sorry, Ted. By "testing phase," you mean before the operational phase of the actual disposal?

MR. KILLORY: We've been dealing so

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far with tests.

Q. Is that correct?

A. Yes.

Q. Was the conversation -- when you said your boss, were you referring again to Ms. Saunders?

A. Yes, I was.

Q. Did the conversation with Ms. Saunders occur during the phase in which you were conducting tests of the ART stem disposal process?

A. Yes, I believe so.

Q. And did you take a sample?

A. Yes, I did.

Q. And what was the result of that sample testing?

A. I don't know.

Q. Do you know if there's a record that was maintained of that sample testing?

A. No, I don't.

Q. Did you reach any conclusion based on that sample?

MR. MURPHY: I object to the form of the question. Lack of foundation.

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03:19:36 A. I don't understand what kind of
03:19:40 conclusion you're asking me about.
03:19:42 Q. Did you reach a conclusion as to the
03:19:44 level of nicotine content in the solids as a
03:19:46 result of that test?
03:19:46 MR. MURPHY: Same objection.
03:19:54 A. I was told that it was okay to
03:19:54 proceed with testing and processing.
03:19:58 Q. I'm sorry. That it was okay to
03:20:00 proceed with processing?
03:20:00 A. Yes, based on the equipment and setup
03:20:04 we had.
03:20:06 Q. But no one told you what the nicotine
03:20:10 level of the tested solids was?
03:20:12 A. No, they didn't.
03:20:22 MR. MURPHY: Ted, it's now about
03:20:24 3:20. Would this be a convenient time to take a
03:20:26 break?
03:20:26 MR. KILLORY: Why don't we go about
03:20:30 five or ten minutes, if that's okay, then we
03:20:30 might have a more natural break point.
03:20:32 MR. MURPHY: That's fine. It's the
03:20:50 3:00 yawns that set in.
03:20:50 MR. KILLORY: Actually, David, can we

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keep it to ten minutes?

MR. MURPHY: Absolutely.

MR. KILLORY: So we'll be back at 3:30. That's fine.

THE VIDEO OPERATOR: We're going off the record. Time on the screen is 3:21. This is the end of videotape number 2.

(A recess was taken.)

(Donaher Exhibit 6 for identification, request form dated 3/16/92.)

THE VIDEO OPERATOR: This is videotape number 3, the continuation of the deposition of Ms. Donaher. The time on the screen is 3:39:05.

Q. Ms. Donaher, I'm handing to you a document that's been marked by the reporter as Donaher Exhibit Number 6. It is another test request form dated 3/16/92.

A. Before we have questions, I was thinking about something about my previous testimony over the break I wanted to clear up.

Q. Okay.

A. You asked a question along the lines of, were there occasions I searched for documents

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or discussed documents on the ART stem with anyone other than counsel, and I ~~had~~ recall an instance where my boss asked me for some documents.

Q. And what instance was that?

A. Approximately March, February time frame of 1994, I was asked by my boss, which was Mickey Annamanthadoo, if I had some documents on the ART process.

Q. Did you have discussions with counsel during the break?

MR. MURPHY: I object to that question. I'll let her answer whether she conferred with counsel. I will not let her answer any question that would tend to reveal any conversations that she had with counsel or any of those communications. Subject to that understanding --

MR. KILLORY: I believe the question was, did you have discussions with counsel.

MR. MURPHY: I just want to make it clear to the witness.

A. Yes, I did.

Q. Did you have any documents at the time of that request in February or March of

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1994?

A. Yes, I did.

Q. To whom did you give those ART stem documents?

A. I gave them to Mickey Annamanthadoo.

Q. Do you recall what those documents were?

A. They were documents similar to some of the ones we've seen here.

Q. Anything else you would like to add to clarify your earlier testimony?

A. No.

Q. Looking at Donaher Exhibit 6, it's another test request form. This one lists as initiator of the test Denise Donaher and Doug Budd. Was Doug Budd someone with whom you worked?

A. I worked with him on these tests, yes.

Q. Did you prepare this document?

A. Yes, I did.

Q. Does this reflect continuing testing of an ART stem disposal process as of March 16, 1992?

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MR. MURPHY: I object to the form of the question with respect to continuous testing. I'm not sure what you are referring to.

Q. If you read "continuous," it should read "continuing."

MR. MURPHY: Perhaps I misheard, or the court reporter did.

Q. Continuing testing. We've been discussing testing through February. My question is, as of March 16, 1992, was testing continuing?

A. Based on my recollection and this document, that up until this point we had done sporadic tests. This was to evaluate continuous operation.

Q. The paragraph E of the document calls for testing for -- from Tuesday, 3/17/92, continuing 24 hours per day until 0700 hours on Tuesday, 3/24/92. Is that correct?

A. That's what it says here, yes.

Q. Do you know if that testing occurred?

A. I believe that it did, in these approximate time frames, yes.

Q. Do you know whether the process used

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in this March testing was the same process described in Exhibit 5 with regard to the February testing?

MR. MURPHY: I object to the form of the question. If you understand it, you can answer it.

A. Are we talking about the process --

Q. Process outlined in Exhibit 5 in the diagram that you prepared, that's right. Was the process used for the test reflected in Exhibit 6 the same process as you had diagramed as reflected in Exhibit 5?

A. I don't know at what points the decision was made exactly to remove the stock surge tank metering system to wastewater treatment. The process would have been approximately the same with the exception of that step, which I'm not sure about the timetable of when that decision was made.

Q. So that decision may have happened after this test or it may have been before, you don't recall?

A. That's correct.

Q. Other than the elimination of the

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stock surge tank, are there any other changes in the ART stem disposal process that's reflected in the diagram you prepared in Exhibit 5?

MR. MURPHY: I object to the form of the question. If the witness is able to answer, she can answer.

A. The only other change that could have happened at this test time was the replacement, rather than using the air pump, the Wildon air pump to feed the dewatering screen, we used a valve off the centrifugal pump, because the air pump was not doing a good job of feeding the dewatering screen. I don't know when that occurred.

Q. Do you recall when the ART stem disposal process went operational?

A. In terms of a continuous effort to dispose of the stems? I don't know the exact date, no.

Q. Do you know roughly when in relation to the March testing?

MR. MURPHY: Objection to form. You can answer.

A. It occurred approximately in the

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March time frame of 1992, may have been April.

Q. When it went operational as a continuous process, did it operate on a 24-hours-a-day basis?

A. I believe so.

Q. And do you know for how long that process operated?

A. Ten to 12 months.

Q. So to the best of your recollection, the ART stem disposal process in its operational mode concluded when?

A. Sometime between November of 1992 and February or March of 1993. I really don't know exactly.

Q. Are there any documents that record the test period -- I'm sorry, the operational period of the ART stem disposal process?

A. The only documents that may have that information would be the log sheets kept by the operators.

Q. Do you know if those log sheets are retained?

A. I don't know.

Q. Did you have a continuing role in the

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ART stem disposal process during its operational phase?

A. No, I didn't.

Q. What is your understanding as to whether the 1 and a half million pounds that Ms. Saunders assigned you the task of disposing of -- let me strike that.

Is it your understanding that the 1 and a half million pounds that Ms. Saunders referenced in her initial conversations with you were disposed of, the 1 and a half million pounds of ART stems?

A. Whatever quantity it was -- which I think I stated earlier I wasn't sure, 1 and a half is an approximate -- whatever that quantity was, yes, I understood that those stems had all been disposed of.

Q. During the operational mode of the ART stem disposal process, do you know whether RL was being produced on line 3?

A. I believe that it was.

Q. Do you know whether there was any commingling of materials between the RL process operating on line 3 and the ART stem disposal

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process?

A. Not to my knowledge.

Q. And what's the basis of your knowledge with regard to commingling of materials?

MR. MURPHY: Objection to form. You can answer.

A. You have a series of tanks and pipes that have a start point and end point. And the end point is a dumpster and the sewer.

Q. And none of the points before those end points were commingling points with RL materials being produced on line 3?

MR. MURPHY: Objection to form. You can answer.

A. That's correct.

Q. Do you recall at any time in the testing of the ART stem disposal process whether you had a problem with slurry in the pulper?

MR. MURPHY: Objection to form. I don't think you intended to be unclear, but you referred in your question to the testing of the ART stem disposal process, and I just want to be clear as to whether we're talking about the

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disposal process phase or the testing or design phase.

MR. KILLORY: My question was precisely designed to focus on the testing.

MR. MURPHY: With that clarification, you can answer the question.

A. We had some difficulty with the fiber in the pulper where we had -- the temperature got too high, where the fiber broke down to very small pieces, unsuitable for pressing.

Q. Did that problem recur during the operational phase of the ART stem disposal process?

A. I'm not aware of any specific instance, but it's possible because it could happen if you had a malfunction of your steam sparger or your temperature control.

(Donaher Exhibit 7 for identification, Park 500 RL processing lab shift technician T-3 training manual, first edition 1994.)

Q. Ms. Donaher, the court reporter has just handed you a document marked as Donaher Exhibit number 8 -- is that correct? 7.

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Donaher Exhibit Number 7 is a document or manual entitled "Park 500 RL processing lab shift technician T-3 training manual, first edition 1994." It's Bates stamped PA 445748, with production numbers 2030807182, and concluding Bates number is 20 -- I'm sorry, PA 445831, production number 2030807265.

Have you ever seen this manual before?

MR. MURPHY: Objection. Are you asking the witness to read this manual carefully or in any detail?

MR. KILLORY: No. It's a very thick manual. I'm going to have very limited questions on it.

Q. My first question is, looking at -- obviously it's a Xeroxed copy as produced to us from Philip Morris, but apart from the fact that it's a Xeroxed copy, have you seen a manual that looks like this before?

A. No, I haven't.

Q. Could you turn to -- the Bates stamping is consecutive, there's not a page number at the bottom. It's PA 445790. Just

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about midway through the document.

(Witness complies.)

Q. On the page labeled "Solubles determination," the third paragraph down, the bolded words, "Base web solubles," that paragraph reads, "Base web solubles are a measurement of the dissolved solute in the base web. This is the basic, unlined basic, refined tobacco sheet before the denitrated, concentrated and flavored juice," "juice" is in quotes, "is reapplied to make the final finished product.

"Base web solubles are important in that they will directly affect the finished sheet solubles at all times. All else being equal, the higher the direct -- the base web solubles, the higher the finished sheet solubles."

Is this an accurate description of the base web solubles?

MR. MURPHY: In what respect?

Q. Your understanding as to base web solubles.

A. I -- the terminology "dissolved solute" doesn't mean anything particular to me.

Q. How about the description of the base

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03:54:48 web? Is that accurate?

03:55:02 MR. MURPHY: Objection to form. You

03:55:02 can answer.

03:55:06 A. It's very, very ambiguous. Tobacco

03:55:18 sheet is not exactly what base web is. I've

03:55:28 never heard of size or liquor being called

03:55:32 juice.

03:56:02 MR. KILLORY: Would you mark that as

03:56:04 Exhibit 8, please.

(Donaher Exhibit 8 for identification, The Paper Making Process Language, Park 500 division of Philip Morris.)

03:56:32 Q. Donaher Exhibit 8 that the court

03:56:34 reporter has just handed you is a document

03:56:36 entitled "The Paper Making Process Language, Park

03:56:42 500 division of Philip Morris." The Bates stamp

03:56:44 number on the first page is PA 266704. The

03:56:48 production number is 2030048051. The Bates stamp

03:56:54 number, the last page, is PA 266711. The

03:56:56 production number is 2030048058.

03:57:00 I will represent to you that in my

03:57:06 understanding this was in the form it was

03:57:06 produced, and that it came from your files

03:57:08 according to the Philip Morris production

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Could you turn to 2030048055. It's the fifth page of Exhibit 8.

(Witness complies.)

Q. The first question as to this document generally, do you recall seeing this document before?

A. I think this document was one of several that I -- not of several, of many that I accumulated when I first came to the plant to try to learn.

Q. Do you recall reading the document?

A. I don't recall reading it specifically. I may have flipped through it.

Q. On the page that I referenced, the fifth page, under the Js, it has "Juice, same as liquor." Do you recall ever reading that?

A. No.

Q. You don't refer to juice -- to liquor as juice?

A. No, I don't.

Q. To be clear, we're talking about liquor and juice in the context of the RL production process.

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03:58:26 A. Okay.

03:58:26 MR. MURPHY: As opposed to orange
03:58:28 juice.

03:58:28 Q. As opposed to lay definitions of
03:58:30 liquor and juice. You can put that aside.

03:58:44 What was your work on the -- what did
03:58:48 your work on the centrifuge sludge problem
03:58:52 entail?

03:58:52 MR. MURPHY: Objection to form. I
03:58:56 think the question involves a characterization
03:58:58 that may be without foundation. You can answer
03:59:06 the question or Mr. Killory can rephrase it.

03:59:08 Q. Do you understand the question?

03:59:08 A. Are you asking what my objective was,
03:59:12 the purpose?

03:59:12 Q. Yes.

03:59:14 A. The purpose was to look at taking the
03:59:24 fibers from the centrifuge sludge or centrifuge
03:59:28 sludge themselves and incorporating it back into
03:59:30 the process as fiber as opposed to disposing of
03:59:36 it.

03:59:36 Q. At the time you were given the
03:59:40 assignment, the centrifuge sludge was disposed
03:59:42 of?

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MR. MURPHY: Do we have a time yet?

MR. KILLORY: Mm-mm.

Q. What was the existing process at the time you were given the assignment?

MR. MURPHY: Well, let's put a date on this, because right now it's very unclear as to what we're talking about.

MR. KILLORY: We'll get the date. I just have a question --

MR. MURPHY: We don't even know if this is prior to March 24, 1994. So let's establish a date and do this in an orderly fashion.

Q. Do you recall whether it was prior to March of 1994 that you were given the centrifuge sludge assignment?

A. I believe it was, but I'm --

Q. Do you -- I'm sorry. Do you remember when, what the date was of the assignment?

A. No, I don't.

Q. At the time you were given the assignment, was centrifuge sludge disposed of?

A. Yes, it was.

Q. What is centrifuge sludge?

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04:00:48 A. It's material from the tobacco
04:00:56 that's -- from the tobacco liquor that's
04:01:02 centrifuged out in the last stage of liquor
04:01:02 cleanup.
04:01:06 Q. Is this material from the liquor
04:01:08 cleanup fiber?
04:01:14 A. The majority of it is fiber.
04:01:22 Q. And this is generated from the liquor
04:01:22 cleanup, not the denitration centrifuge; is that
correct?
04:01:28 MR. MURPHY: Objection to form. You
04:01:28 can answer.
04:01:30 A. Can you ~~say~~ state the question -- it
04:01:32 doesn't make sense.
04:01:32 Q. I understand there's a denitration
04:01:36 centrifuge as well. Do you have any knowledge as
04:01:38 to that?
04:01:40 A. Yes, there is.
04:01:42 Q. And the centrifuge sludge we're
04:01:46 talking about here is generated from the liquor
04:01:48 cleanup centrifuge; is that correct?
04:01:50 A. Yes, it is.

(Donaher Exhibit 9 for identification, C&I closeout report.)

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Q. Ms. Donaher, I don't have detailed questions on Exhibit 9. It appears to be a -- it's labeled "C&I closeout report." "Problem, centrifuge sludge is removed from the RL process resulting in disposal cost and yield loss. Start date, November 2, 1992. Solutions and date implemented, this decision was made to discontinue this project in November 1993. The closeout date, November 1993."

MR. MURPHY: Just for the record, this appears to be a number of different documents. I don't know how this was produced. I'm not making any representation that it was not produced --

MR. GOLDBLATT: It was produced in this matter. It says, "I am attaching memoranda relating to this project."

MR. KILLORY: That reminds me, I should be giving the Bates stamp number for this. It's PA 315999. It runs through PA 316017. The production numbers are 2025323903 through 2025323921. As Mr. Goldblatt indicated, this ~~was~~ is in the form as it was produced ~~to~~ by Philip Morris.

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Q. Do you recognize this closeout report?

A. Yes, I do.

Q. And what is it?

A. It's a standard report that was filled out at the end of this project by me.

Q. You prepared this report?

A. Yes.

Q. What does C&I stand for?

A. It stands for control and improvement.

Q. What conclusion does this reflect with regard to the centrifuge sludge project that you worked on?

A. It states that that the project was discontinued.

Q. So that you discontinued the effort to find a means to recirculate the fibrous materials from the centrifuge sludge in the RL process?

MR. MURPHY: Objection to form. You can answer.

A. It means we discontinued any efforts to reincorporate centrifuge sludge in the RL

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process.

Q. So centrifuge sludge continued to be disposed of as you described it being done earlier?

A. That's correct.

Q. Do you know what the quantity of centrifuge sludge generated in a day's operation of the RL process is?

A. I don't know, no. Not exactly.

Q. Do you have any idea -- as a percentage of the raw materials coming through the line, do you know what percentage the centrifuge sludge would represent?

A. 1 to 2 percent. But that's just an approximation.

Q. I don't have any other questions on that document. You mentioned earlier that you worked on a padding problem project; is that correct?

A. Yes, I ~~do~~ did.

Q. What was your assignment in connection with the padding problem?

A. My assignment was to lead an effort to determine some means of eliminating problems

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with RL pads.

Q. What are RL pads?

A. Pads are a major problem to our customers in the primaries. They're caused -- or they are ~~blobs~~ lots of pieces of RL stuck together to form a big, hard clump of varying size and thickness.

Q. And when you say "customers" in your prior response, to whom are you referring?

A. I'm talking about customers in the primaries that receive our product.

Q. That's the Philip Morris facilities to whom you send the RL product, finished product?

A. That's correct.

Q. What are the causes of RL padding?

A. The causes we identified as a result -- during the course of this work were the OV level of the product going into the container, the solubles level, and the uniformity of the RL ~~in~~ into the container itself.

Q. By "the OV level," does that refer to oven volatiles?

A. Yes, it does.

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04:07:38 Q. And the solubles, would it be high soluble content that would result in padding?

04:07:44 MR. MURPHY: Objection to form. You can answer the question.

04:07:50 A. There was an interaction between solubles and moisture. When you had high moisture and higher solubles, you had more pads.

04:08:04 Q. Did you ever arrive at a solution to the problem?

04:08:08 A. Yes, we did.

04:08:10 Q. And what was that solution?

04:08:10 MR. MURPHY: Just to be clear, when you say "you," are you using "you" as in Philip Morris or "you" as in Denise Donaher?

04:08:20 Q. You as a leader of the team ~~designing~~ assigned the task of coming up with the solution to the problem. Did the team arrive at a solution to the padding problem?

04:08:32 MR. MURPHY: Objection to the form. You can answer the question.

04:08:32 A. Yes, we did.

04:08:34 Q. And what was that solution?

04:08:36 A. The solution was an improved means of distributing the RL product inside the container.

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Q. And what was that improved means of distributing?

A. We used a series of conveyors with variable speeds that layered the tobacco -- layered the RL into the container, ~~in~~ into the hog's head.

MR. KILLORY: Could you mark that as Exhibit 10.

(Donaher Exhibit 10 for identification, Broke refeed chart.)

Q. Ms. Donaher, the court reporter has marked as Exhibit 10 a one-page document produced by Philip Morris with the Bates stamp number PA 539595, the production number 2030054866. It is titled "Broke refeed chart." The bottom of the page says, "Pad team, July 8, 1993."

Do you recognize this document?

A. I may have seen it.

Q. Do you know whether you would have seen it in the context of working on the pad problem project that we were just discussing?

MR. MURPHY: Objection to form. You can answer.

A. It's likely.

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Q. What is broke?

A. Broke in the context of this document or broke --

Q. Broke in the context of this document. What's being referred to here?

MR. MURPHY: Objection to form. You can answer.

A. I'm having to refresh my memory on what this document is.

Q. I understand.

A. It's not clear to me in this case what exactly broke is. But generally it would refer to pounds of product, of RL product or pads. This may have been a result of a pad testing that was put back in the broke ~~pulp~~ pulper. I don't know if it was product that was produced during these tests or the pads themselves, or both.

Q. Pads, when you refer to pads in that context, it would be pads produced by the testing as well?

MR. MURPHY: Objection to form. If you understand the question, you can answer it.

Q. Let me ask a different question. I

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think that was imprecise. When your customers would receive pads in the RL product, would they send it back to you, the pads?

A. Are we talking about this -- in the context of this document? Are we talking about generally speaking?

Q. First start, generally speaking. We'll come back to the document.

A. Generally speaking, yes, the pads that our customers have left over after processing are returned to Park 500.

Q. What is done with the pads that are returned from Park 500's customers?

A. They're fed into the broke pulper.

Q. And from the broke pulper they go where?

A. The broke pulper ends up back in the blend pulper.

Q. Which is back at the start of the RL process?

A. That's correct.

Q. Back to this specific document, I was trying to understand, when you said the broke referred to here could be the product of the

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testing or it could be the pads themselves -- is that correct?

A. That's what I said, yes.

Q. What did you mean by "the pads themselves"?

A. Based on the left-hand column where it says "Trial number," that leads me to believe that these numbers were generated during our trial period when we were trying to determine the causes of pads. And we pad tested the product, trial hogs' heads, at R+D Semi-Works to find out the quantity of pads inside each of these trials.

Q. In the testing that you did in the course of the pad project, did you test for soluble content of the pads?

A. Of the pads themselves? No.

Q. Are the pads something distinct from the RL?

MR. MURPHY: Objection to form. You can answer, if you understand the question.

A. My understanding is, pads are RL.

Q. It's RL stuck together.

A. That's correct.

Q. And your recollection is you did not

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04:14:30 test for the soluble content of that RL that was
04:14:34 stuck together in pads in the course of your pad
04:14:36 team project?
04:14:38 A. We didn't, no.
04:15:00 Q. Is there a lab that's part of the
04:15:02 Park 500 operation?
04:15:06 A. Yes.
04:15:10 Q. Do you work in the lab?
04:15:10 A. No, I don't.
04:15:12 Q. Have you at any time in your time at
04:15:14 Park 500?
04:15:18 A. I have never been in the lab
04:15:20 department, no.
04:15:26 Q. Do you understand what the lab
04:15:28 department does?
04:15:30 A. I have general knowledge of some of
04:15:32 their responsibilities.
04:15:32 Q. And what is that?
04:15:36 A. To provide process results to the
04:15:44 manufacturing operation.
04:16:04 Q. Is there a target level for the size
04:16:06 to be -- for the amount of size to be applied to
04:16:08 the base web in the RL production process?
04:16:12 MR. MURPHY: Objection to form. You

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can answer the question.

A. There's not a target level for the amount of size that's added to the base web, no.

Q. How is it determined how much size to add to the base web in the production process?

MR. MURPHY: Objection to form. I think the question is still unclear. But if you understand the question, you can answer it.

A. Can you repeat the question again?

Q. Sure. In the production of RL, how do you know how much size to add to the base web to produce the finished product?

MR. MURPHY: Objection to form. You can answer.

A. The amount of size is determined by the finished sheet solubles specifications.

Q. And what are those specifications?

A. I don't know exactly what they are.

Q. Do you know generally what those specifications are?

A. Approximately 43 percent to 48 percent finished sheet solubles.

Q. And by that you mean that 43 to 48 percent of the finished sheet consists of

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solubles?

A. That's correct. That's approximately.

Q. That's the target level?

MR. MURPHY: Objection to form. I don't want this to be unclear. That's solubles by weight, by total weight.

Q. Is that what you meant, by weight?

A. Yes, it is. I think --

Q. Does -- go ahead.

A. I think you said that was the target level. I think I said it was the specification.

Q. What's the difference between specification and target level?

A. The specification is the range of finished sheet solubles that would be considered acceptable to ship the product. Acceptable finished product. The target level is the percent finished sheet solubles that are being targeted at a given point in time.

Q. Is the target level always within the specifications?

A. Yes, it is.

Q. The specifications set the upper and

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lower limit for the acceptable target?

MR. MURPHY: Objection to form. You can answer.

Q. Is that correct?

A. The targets would be -- the target limits would be approximately the same as the specification limits, yes.

Q. In your time at Park 500, have the specification limits changed?

A. Not to my knowledge.

Q. How about the target level? Has that changed?

A. There isn't one target level.

MR. MURPHY: Objection to form. You can answer.

A. There isn't one target level.

Q. How is the target level determined?

A. The target level is determined by the amount of liquor that's available to put back on the base web.

MR. KILLORY: Would you mark that, please.

(Donaher Exhibit 11 for identification, Park 500 Inter-office

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correspondence from D. Barfield, T. Bullock, B. Estes, C. Spellmeyer.)

04:20:46 Q. What factors would affect the level, the amount of liquor that's available to put back on the base web?

04:20:54 MR. MURPHY: Objection to form. You can answer.

04:21:10 A. Losses of solubles in the process. Equipment problems, difficulties. Down time in the liquor processing side, or variation of solubles levels in the incoming feedstocks.

04:21:24 Q. So if there were low soluble levels in the incoming feedstocks, that could lead to a lower amount of liquor in inventory at any given time; is that correct?

04:21:36 A. That's one of the things that contributes.

04:21:42 Q. What happens if the soluble levels of the incoming raw materials are higher than usual?

04:21:50 MR. MURPHY: Objection to form. The question is somewhat vague. But you can answer, if you understand it.

04:21:56 A. I don't know what you mean, "higher

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than usual."

Q. You mentioned lower soluble levels in the incoming materials, the raw materials could be one of the reasons for low liquor inventory. My question is simply, are there situations where high soluble levels on the incoming feedstock or raw materials leads to high inventory levels of liquor?

MR. MURPHY: Objection to form. Her testimony speaks for itself. I move to strike that portion of your question. You can answer the remainder of the question.

A. The solubles level in the feedstocks varies from low to high, and everywhere in between.

Q. What's the range of variation, do you know?

A. Approximately 40 -- 45 to 50.

Q. What's the basis for your knowledge as to the range of soluble levels of incoming raw materials?

A. We have a TQM, total quality measure, of hot water solubles of feedstocks.

Q. Are there times where it's necessary

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to dispose of base web?

MR. MURPHY: Objection to form. You can answer the question.

A. The only time I'm aware of disposing of base web for any reason is possibly at startup or shutdown situations.

Q. So you're not aware, other than startup and shutdowns, you're not aware of other times where base web would be disposed of?

A. Not that I'm aware of, no, but I'm not in the day-to-day operation.

Q. Would disposal of the base web affect the amount of inventory of liquor available for application to the base web?

MR. MURPHY: Objection to form. I don't think the question makes sense, Ted.

A. It doesn't make sense to me.

Q. How is liquor -- from where is the liquor produced in the RL process?

A. It's produced from the solubles in the feedstocks.

Q. From the raw materials. And after the liquor is extracted, the remainder of that feedstock is the base web; is that correct?

2058449480

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MR. MURPHY: Objection to form. You can answer the question if you understand it.

Q. Do you understand the question?

A. Could you repeat it?

Q. The liquor is extracted; is that correct?

A. The liquor is extracted --

Q. From the raw materials.

A. That's correct.

Q. What is left in the raw materials after the liquor is extracted?

MR. MURPHY: Objection to form. I think we're just tripping over words here, and I don't think you're being deliberately misleading or vague.

MR. KILLORY: Why don't I try to reword it.

MR. MURPHY: The liquor extracted is I think part of what's confusing the witness, and it's certainly confusing me.

MR. KILLORY: Let me rephrase it just for purposes of a clear record.

Q. The RL process, and I realize this is somewhat of an oversimplification, but in

2058449481

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04:25:40 overview, the RL process involves separating the
04:25:48 solubles, which you've referred to as the liquor,
04:25:50 from the raw materials; is that correct?
04:25:54 MR. MURPHY: Objection to form. The
04:25:58 solubles are part of the raw materials. With
04:25:58 that clarification, if you understand the
04:26:00 question.
04:26:00 Q. Do you have an understanding as to
04:26:02 whether solubles are separated from the base web
04:26:04 in the RL process?
04:26:06 A. They're removed or separated.
04:26:10 Q. And the base web continues through
04:26:16 the process, and the liquor that's been separated
04:26:18 continues through the process; is that correct?
04:26:22 MR. MURPHY: Objection to form. I
04:26:24 think the problem here, Ted, is, and we can ask
04:26:30 the witness to leave the room if you want for a
04:26:32 moment, and I can explain the terminological
04:26:32 problem I have with your question if you prefer
04:26:36 to do that. I'm willing to do that.
04:26:38 MR. KILLORY: I'll try to reword it
04:26:40 again.
04:26:42 MR. MURPHY: Okay.
04:26:42 Q. If you take a batch of materials on

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line 1 that's coming into the process, in the course of the RL production process, that batch of material is -- choose your word. Separated, is "separated" not the right word for what happens to the solubles versus the base web?

MR. MURPHY: Objection to form. You can answer.

A. You could say separated or removed.

Q. Okay. Let's say removed.

MR. MURPHY: What is separated or removed?

MR. KILLORY: The base web, the liquor is -- the solubles are separated from the base web.

Q. Correct?

MR. MURPHY: Objection to form. I think there's a very simple way to cut through this, if you'll let me.

I would like to just tell you that the word "base web" is being misused in your question. Solubles are separated from tobacco materials or fiber, and the resulting fibrous material is known as base web. But I think it's a misdescription to -- I think it's a

2058449483

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misdescription to say that the solubles are being separated from base web.

You can say they're being separated from stock, from feedstock from the raw materials, or from the tobacco, whichever terminology you prefer. But I just want to keep the record clear as to a term of art here that is used in the process.

With that clarification, why don't you ask another question.

Q. Solubles, and the base web, have their origins in the raw materials; is that correct? Both come from the raw materials originally.

A. Yes, that's correct.

MR. MURPHY: It's become metaphysical.

Q. So you've now -- I realize there may be other stray pieces, but let's just focus on the solubles component and the base web component. Okay? Do you have that in mind?

A. I have it in mind.

Q. If you run the base web because of startup or shutdown reasons, or ~~any~~ whatever other reason,

2058449484

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04:28:52 if the base web is run, aren't you then left with
04:28:56 a higher level of solubles in inventory?
04:29:00 MR. MURPHY: Objection to form. I
04:29:04 still think that the question doesn't make sense.
04:29:06 MR. KILLORY: Let's let her try to
04:29:12 answer this one.
04:29:12 Q. Do you understand this question?
04:29:26 MR. MURPHY: Ted, could you repeat
04:29:28 the question for the witness?
04:29:30 Q. If you run the base web because of
04:29:32 startup or shutdown reasons or any other reason,
04:29:36 if the base web is run, aren't you then left with
04:29:38 a higher level of solubles in inventory?
04:29:40 MR. MURPHY: Same objection. You can
04:29:42 answer.
04:29:44 A. If you did that, yes, provided you
04:29:48 had liquor and you were still running the rest of
04:29:52 the process, yes. But that's making a big
04:30:00 assumption that you're running the ~~risk~~ rest of the
04:30:02 process.
04:30:04 Q. Are there times when base web is run
04:30:04 that the rest of the process continues?
04:30:08 MR. MURPHY: Objection to form. You
04:30:08 can answer.

2058449485

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04:30:16 A. If we're in a shutdown mode, it's possible that we're running out of the stock chest and running base web, when the rest of the process has already been cleared out.

04:30:40 Q. Could you take a look at Exhibit Number 11, the one-page document. Bates stamp PA 592805, production number 2031263050. Have you had a chance to look at it?

04:31:02 A. I'm familiar with the document.

04:31:06 Q. Have you seen the document before?

04:31:08 A. Yes, I have.

04:31:10 Q. In what context have you seen it?

04:31:14 A. In the course of familiarizing myself with some of the procedures or processes within the RL process, I came across this document on the floor.

04:31:28 Q. It's entitled -- the subject line says, "Procedure for finished products solubles center line adjustment." What is the center line being referred to here?

04:31:38 A. I would call it the target.

04:31:46 Q. And when it refers to FS, is that finished sheet?

04:31:50 A. I believe so.

2058449486

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04:31:52 Q. So this is a discussion of the
04:32:00 procedures to follow -- let me strike that.
04:32:02 When you say "target" in your last
04:32:04 response, you mean target in the sense we
04:32:06 described in your preceding testimony about five
04:32:08 minutes ago?
04:32:10 MR. MURPHY: Objection to form. You
04:32:10 can answer.
04:32:14 A. Yes. "Target" refers to what
04:32:16 finished sheet solubles level that is being
04:32:20 targeted at that point in time.
04:32:28 Q. And how could you achieve the changes
04:32:32 in that target or center line level, how
04:32:34 physically could that be achieved?
04:32:36 MR. MURPHY: I object to the form.
04:32:38 You can answer.
04:32:44 A. Can you try and rephrase that
04:32:46 question?
04:32:50 Q. How do you change the soluble target
04:33:10 level for the finished sheet? How do you effect
04:33:16 that change?
04:33:16 MR. MURPHY: Objection to form. I
04:33:20 would also like a clarification as to your use of
04:33:20 the word "you."

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04:33:22 Q. I'm sorry, that's unclear. In the
04:33:24 Park 500 operations producing RL, how are changes
04:33:28 in the target level for the finished sheet
04:33:30 effected?
04:33:32 A. Not being in operations, I'm not
04:33:44 aware of all the methods. Some of the ones I'm
04:33:44 aware of are changing the solubles level in the
04:33:54 size prep batches, or changing the -- I guess
04:34:00 it's pressure on the size press roll.
04:34:02 Q. When you say changing the pressure on
04:34:02 the size press roll, what do you mean?
04:34:08 A. The size is applied to the base web
04:34:16 through a size press, which is comprised of a
04:34:18 couple of rolls, and by changing the pressure,
04:34:24 that's the best way I can describe it, then you
04:34:26 could be affecting the amount of solubles that
04:34:32 are put onto the finished sheet.
04:34:32 Q. Changing the pressure would result in
04:34:36 a change in the amount of solubles applied to the
04:34:40 finished sheet?
04:34:42 A. I believe so. But I don't know what
04:34:46 that relationship is.
04:34:50 MR. KILLORY: Would you mark that.
(Donaher Exhibit 12 for

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identification, Q 500 Park 500 section 6, the line 1/2 SPC system.)

04:34:56 MR. MURPHY: Ted, I'm a little late with this objection, but I'll make it just for clarity. Solubles are not actually what's being applied to the finished sheet.

04:35:04 MR. KILLORY: The size.

04:35:06 MR. MURPHY: That's actually not my point. The solubles are being applied to base web resulting in finished sheet.

04:35:12 MR. KILLORY: Okay.

04:35:12 MR. MURPHY: We're none of us engineers, but some of these terms may matter in terms of clarity. So I like to make them clear.

04:35:48 Q. Ms. Donaher, when we've been discussing solubles applied to the finished sheet, at that stage of the production, do the solubles include additives?

04:36:00 MR. MURPHY: Objection to form. If you understand the question and its terminology, you can answer.

04:36:10 A. What additives are you referring to, or what are you ~~not~~ referring to by additives?

04:36:14 Q. Flavors, for example.

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A. Yes, they do include flavors.

MR. MURPHY: This has the same defect, Ted we just discussed, solubles being applied to finished sheet. Just to keep the record clear, that's not what happens in the process.

Q. Could you just look at the cover of Exhibit Number 12 that has just been handed to you by the court reporter. It's Bates stamped PA 267301, production number 2030049035. The last page of this rather long document is Bates stamped PA 267376, production number 2030049110.

Have you seen -- the document is entitled, Q 500 Park 500 section 6, the line 1/2 SPC system. Do you recognize this document?

A. I have a pretty good idea where it came from.

Q. And where is that?

A. From a Q-1 manual.

Q. I'm sorry.

A. Q-1 manual.

Q. What is a Q-1 manual?

A. It's one of our training manuals that is used to train employees about the development,

2058449490

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the line 1, 2 SPC system, and the process by which it was developed.

Q. If you could turn to the page very near the end, it's bearing the Bates stamp PA 267354, and the production number 2030049088.

MR. MURPHY: Having not had a chance to read the whole document, Ted, do you know whether there is any date on this document?

MR. KILLORY: I do not believe there is. I won't swear to it, but from my review of it, I believe there's not. There may be something in there that indicates a date, but it is not formally dated.

Q. Have you got the page in front of you that I referred to?

A. Yes.

Q. At the top of the page it says, "Controllable parameter, finished sheet solubles." And then under that it says, "Control moves," followed by some text. There are two notes. The first item says, "Adjust size prep nip loading pressure up or down as necessary. Do not exceed pressure range of 16 to 40 PSI without supervisor approval."

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Does that describe the adjustment to the valve that you were describing in your answer a few minutes ago?

A. I don't actually know whether it's a valve or a knob or how the adjustment is actually made.

Q. What -- I'm sorry.

A. I'm just generally aware there is such an adjustment.

Q. Do you know what the size press nip is?

A. It's -- the nip is the point between the two rolls. That's my understanding of the nip.

Q. Do you know why it says "Do not exceed pressure range of 16 to 40 PSI"?

A. I would just generally imagine that whenever you start varying pressure beyond design of equipment, it presents safety hazards. That's just my general opinion.

Q. I should represent just for clarity, and I neglected to say this before, I believe that this document, which I don't think is dated, comes from your files, as reflected on the Philip

2058449492

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Morris production records.

Does this look like the kind of document that is likely in your files?

MR. MURPHY: Objection to form. You can answer.

A. I believe such a document was in my files. This was a portion of the document that was in my files.

MR. KILLORY: Would you mark that, please.

(Donaher Exhibit 13 for identification, Test request form, production quality and technical services.)

Q. Ms. Donaher, could you take a look at Exhibit Number 13, which has just been handed to you by the court reporter. It is Bates stamped PA 403582 through 583, and production numbers are 2024796208 through 6209, two-page document entitled, "Test request form, production quality and technical services."

Under "Initiator of test," Sonny Clarke, ~~James~~ Jimmy Best, Denise Donaher and Dave Mertz. Have you had a chance to look at the document?

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MR. MURPHY: Do you want the witness to read the document?

MR. KILLORY: I don't think that's necessary. Just to look at it.

Q. Have you had a chance to at least look at the document?

A. Yes.

Q. Do you recognize the document?

A. I recognize it as one I wrote, and it never went anywhere.

Q. When you say "it never went anywhere," what do you mean?

A. The test request wasn't signed. It was a thought that some of these procedures might help the operators do a better job, make it more clear to them.

Q. The test was never effected?

A. It was never run, no.

(Donaher Exhibit 14 for identification, test request form dated August 12, 1993.)

Q. Ms. Donaher, the document that's just been handed to you as Exhibit Number 14 is Bates stamped PA 538612, production number 2030053619.

2058449494

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It's another test request form dated August 12, 1993, initiator of test, Denise Donaher. Do you know whether this test was ever effected?

A. Yes, it was.

Q. Could you describe what the test entailed?

A. Exactly what the test request says; that three hogs' heads of RL was produced at a target of 53 percent finished sheet solubles to be subjectively evaluated.

Q. Did you initiate this test at anyone's direction?

A. I can't recall if there was any one specific direction. There was some curiosity as to what would happen in terms of subjectives. And this was a good opportunity because it was in the middle of the pad team trials and we had some flexibility to do ~~some~~ testing more conveniently.

Q. Why did the fact that it was in the middle of the pad team trials give you more flexibility to do ~~more~~ testing?

A. The operators were already in the mode of once a day, that we were shooting for

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some specific targets and trying to control the process to the best of their ability within a small time frame.

Q. You said there was some curiosity as to what would happen in terms of subjectives. Did you have any conversations with anyone on that topic?

A. I think we've had general discussion that it's frustrating for us when we throw solubles down the drain. And there are times when that happens, and in doing that we always wonder, can we improve the economics of our process by not having to throw them away.

And for those occasions, we wanted to confirm or reconfirm what we had already heard, that if you increase the solubles above what the current spec limit was, it wouldn't taste very good subjectively.

Q. And the then current spec limit up at the upper end was what?

MR. MURPHY: Objection to form. You can answer.

A. The upper spec limit for finished sheet solubles is approximately 48 percent or 49

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04:47:32 percent.

04:47:36 Q. How did you achieve the 53 percent --

04:47:38 did you achieve the 53 percent soluble level?

04:47:40 MR. MURPHY: Objection. We're going

04:47:42 back and forth between a test and a spec limit

04:47:46 for production of finished sheet solubles. Are

04:47:48 you talking now, again, about the test?

04:47:52 Q. That's right. The test where you

04:47:56 proposed to achieve a 53 percent soluble level.

04:47:56 Did you, in the test, achieve that 53 percent

04:48:00 soluble level for subjective evaluation?

04:48:04 A. I believe so, with some difficulty.

04:48:06 Q. What was the difficulty?

04:48:16 A. The tobacco will only absorb so much

04:48:20 size or -- no matter what you do, and the other

04:48:32 reason why it was convenient to do it during the

04:48:34 pad team test, and related to the difficulty, is

04:48:36 that the base web solubles, we were running them

04:48:40 on the higher side so that the base web was a

04:48:48 little bit higher solubles, and then you add the

04:48:48 size to that.

04:49:00 Q. The base web solubles that you were

04:49:02 running at that time had higher solubles, is that

04:49:04 what you said?

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A. They were higher than what could normally be run. Running them high is difficult.

Q. To achieve that higher level did you have to discard some of the base web?

MR. MURPHY: Objection to form. I think that misstates and mischaracterizes her testimony. But you can answer the question if you understand what you are being asked.

A. Disposing of base web, ~~I had~~ would have nothing to do with it.

Q. Where did you get the solubles to put on the base web to achieve this test 53 percent soluble level?

A. Solubles that were -- would normally be in the process.

Q. Were they solubles that were then in inventory?

A. Yes.

MR. MURPHY: Objection to form. What do you mean by "then in inventory"?

MR. KILLORY: I think she answered the question.

Q. Do you know if --

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MR. MURPHY: Did you understand the question?

THE WITNESS: I understood it to mean at the time of this test.

Q. Did the finished sheet produced by this test with the 53 percent solubles have a greater nicotine content than typical RL finished sheet?

A. I have no knowledge about nicotine contents on this test material or regular RL.

Q. Was there any testing done to this test 53 percent soluble material for nicotine or alkaloid content?

A. Not to my knowledge.

Q. Did any of this test material end up in RL product that was shipped to your customers?

MR. MURPHY: Objection to form. You can answer.

A. No.

Q. What did you do with it?

A. Three hogs' heads were made and sent to R&D Semi-Works to be processed into cigarettes, to be subjectively evaluated.

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04:51:20 Q. And do you know what happened in the
04:51:24 subjective evaluation?
04:51:28 A. I recall being told that the results
04:51:34 were unacceptable, the subjectives were negative
04:51:36 as compared to the normal RL product.
04:51:38 Q. Do you recall who told you that?
04:51:44 A. It may have been Jay Swain.
04:51:48 Q. Who is Jay Swain? What position does
04:51:50 Jay Swain hold?
04:51:52 MR. MURPHY: As of --
04:51:52 Q. As of the date he told you that the
04:51:54 subjectives were unacceptable.
04:52:00 A. He was a flavor scientist, or I don't
04:52:04 know what his title is, in R&D.
04:52:08 Q. The date of the test request form for
04:52:12 this test is August 12th, 1993. Do you know when
04:52:16 the testing occurred?
04:52:18 A. This testing?
04:52:20 Q. That's right. The 53 percent soluble
04:52:22 level testing.
04:52:28 A. This test request says it was
04:52:30 conducted on August the 20th. So I would imagine
04:52:34 it was on or around that time. But I don't know
04:52:36 the exact date.

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04:52:38 Q. To the best of your recollection, that testing went off, occurred approximately at the time proposed in this --

04:52:46 A. Could have been a week or two. But no more than that.

04:52:54 MR. KILLORY: Could you mark that, please.

(**Donaher Exhibit 15** for identification, document Bates stamped PA 403521 through PA 403527.)

04:53:34 Q. Ms. Donaher, the court reporter has handed you a document that's been marked as Donaher Exhibit 15. It's Bates stamped PA 403521 through PA 403527. The production number is 2024796056, concluding with 2024796062.

04:54:10 Take a look at the document, please. You don't need to -- I'm not going to ask you detailed questions about the contents, but I would like you to familiarize yourself with it.

04:54:18 MR. MURPHY: I take that to mean she does not need to read it with care?

04:54:20 Q. Don't read all the details. Just familiarize yourself with it. I would point out to you, by the way, that on the last page your

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name is mentioned.

MR. MURPHY: I just pointed out to the witness that her name is also mentioned on page 4.

MR. KILLORY: Yes. I hadn't noticed it.

Q. You have had a chance to look at the document. The problem identified on the cover is, and I quote, "Improve broke and pad feedback to increase yield." Does this document relate to the pad project that we've been discussing earlier in your testimony?

MR. MURPHY: Objection to form. You can answer.

A. I can't see any link between the two.

Q. Do you recall seeing this document before?

A. No, I don't.

Q. Who is Bucky Shope? S-H-O-P-E.

A. He's a production supervisor at Park 500.

Q. Did you say he or she?

A. He.

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04:56:50 Q. Do you recall any conversations with
04:56:54 anyone about this problem of improving the broke
04:56:58 and pad feedback to increase yield?
04:57:06 A. Not in regard to this specific
04:57:10 effort.
04:57:10 Q. How about more generally, apart from
04:57:12 this effort, the problem of improving broke and
04:57:16 pad feedback? Do you recall any conversations on
04:57:20 that subject?
04:57:20 MR. MURPHY: Objection to form.
04:57:26 A. I recall having some general
04:57:26 discussions.
04:57:30 Q. With whom would you have had those
04:57:32 discussions?
04:57:34 MR. MURPHY: Objection to form. You
04:57:36 can answer.
04:57:40 A. I don't know who.
04:57:42 Q. What was the nature of the problem?
04:57:46 MR. MURPHY: Objection to form. You
04:57:48 can answer the question.
04:57:58 A. I think the concern is that broke is
04:58:00 already -- the fibers have already been refined,
04:58:04 and by sending them back to the beginning of the
04:58:06 process, they're already so small that you are

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going to just lose them. That's the general concern. And I believe was the main focus of this effort.

Q. On the second page of Exhibit 15, which is actually labeled page 1, after the cover page, under "Evidence of the problem," you see item P 2, it says, "Evidence of the problem, list/illustrate evidence that demonstrates chronic nature of the problem and the size of it."

Item 1 under that heading says, "No accurate accounting system for broke taken to dumpsters (waste)." Is it true there is no accurate accounting for broke taken to dumpsters at Park 500?

MR. MURPHY: Objection to form. You can answer the question, if you know.

A. I don't know one way or the other.

Q. Do you have any knowledge on the subject of accounting for discarded broke?

A. "Discarded broke" doesn't make sense to me.

Q. Okay. Broke that is not recycled in the process but taken to the dumpster. That's

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what I mean by "discarded broke."

A. I don't know. I don't know.

Q. Number 4 in that same list on page 1, it's the second page of Exhibit 15, item number 4, says, "Refined fibers being lost through the wire." Do you know what that means?

A. I interpret it to mean that fiber that has been refined a significant amount of times going back through the process as broke, would tend to be smaller and fall through the wire.

Q. And the wire being referred to is what?

A. Is a Fourdrinier.

Q. The Fourdrinier press?

A. The Fourdrinier. is not a press

Q. The Fourdrinier. The broke --

MR. MURPHY: I'm sorry, I don't understand that. exchange

MR. KILLORY: I had said "press," and I think I was being corrected that Fourdrinier --

Q. You do not understand to have the word "press" attached to the word "Fourdrinier"; is that correct?

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MR. MURPHY: It's not a press.

THE WITNESS: That's what I said.

MR. KILLORY: She was correcting my use of the word "press," quite correctly.

Q. Broke is base web that has broken into pieces; is that correct?

MR. MURPHY: Objection to form. You can answer the question if you understand it.

A. I would refer to broke as any finished sheet or base web material that's put back in the broke ~~pulp~~ pulper.

Q. I see. So it can be either finished sheet or base web?

A. That's correct.

Q. The broke that's put back in the broke pulp, do you have any understanding as to whether it's more finished sheet or more base web?

MR. MURPHY: Objection to form. If you know and understand the question, you can answer it.

A. I don't know what the breakdown is.

Q. Item number 5 on that same list on page PA 403522 says, "Fiber is being lost through

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the cleaning systems ~~and~~ in stock prep." Do you know what that refers to?

MR. MURPHY: Objection to form. I take it that you're asking her for her knowledge independent of this document.

MR. KILLORY: That's right.

MR. MURPHY: You can answer the question.

A. If someone told me fiber is being lost through the cleaning systems ~~and~~ in stock prep, I would take that to mean the fiber being removed by the centrifuges in liquor cleanup and the bird cleaners being removed in ~~the~~ liquor cleanup.

Q. What are the bird cleaners?

A. They are the second stage of liquor cleanup that removes dense, heavy material that's contained in the liquor.

MR. KILLORY: One second, so we can wrap up.

Could you mark that. We just have a couple of minutes more, David, and we're through.

(Donaher Exhibit 16 for identification, memo on pad stationery of David

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Barfield.)

05:03:58 Q. Ms. Donaher, the court reporter has
05:04:00 handed you a document that is marked -- I believe
05:04:04 it's Exhibit 16, is that correct? Exhibit 16 is
05:04:06 Bates stamped PA 614577, production number
05:04:18 2031106567, concluding with Bates stamp PA
614589, production number 2031106579.

05:04:28 On its face the document is a memo on
05:04:30 the stationery, the pad stationery of David
05:04:34 Barfield, and it outlines the procedure for
05:04:38 transferring liquor between lines 1 and 2 tote
05:04:40 bin and tanker. It says, "Please review then
05:04:46 train your number 2 operators and number 2
05:04:50 operator upgrades on how to perform safely and
05:04:52 correctly," underlined "safely" and underlined
05:04:54 "correctly."

05:04:54 "Document who was trained and when
05:05:00 and turn in to me by Tuesday morning, 5/29.
05:05:02 Don't forget the people from L-3. DLB." It's
05:05:06 dated 5/22/90.

05:05:06 Attached to it are a series of
05:05:10 handwritten, hand lettered pages. Have you ever
05:05:12 seen this document before, or any portions of
05:05:14 it?

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MR. MURPHY: Objection to form. The document speaks for itself, and some of your summary and characterization of it is inaccurate. However, I will let the witness answer the question with respect to whether she's ever seen this document before.

A. No, I haven't.

Q. Do you know whether liquor is transferred between lines at the Park 500 facility?

A. I've heard of instances where it's occurred.

Q. What types of instances?

A. The ones that I have some knowledge about are when we have had known equipment problems on one line that have prevented us from making liquor or making SCEL or DNCEL to make into size, and so to keep the line from shutting down, then liquor -- if one line had excess liquor or had enough liquor to keep running, a certain amount might be transferred to another line to prevent it from shutting down.

Q. So if one line has not enough liquor but another line has enough that it can spare

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some, transfers have been made?

MR. MURPHY: Objection to form.

Q. Is that correct?

MR. MURPHY: That completely misstates and missummarizes her testimony. The testimony speaks for itself. If you have a specific question, put the question to the witness.

Q. Other than equipment breakdown, are there any other reasons why there would be low liquor on a given line at Park 500?

MR. MURPHY: Objection to form. You can answer the question.

A. We could be having process losses, a valve could be open somewhere an operator forgot about or didn't know about. That kind of thing could go undetected for who knows how long. Those are the main instances I can think of.

Q. Could low soluble levels in the incoming raw materials be a reason for low liquor inventory on a line?

MR. MURPHY: Objection to form. You can answer the question.

A. Like I stated earlier, the solubles

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level in the feedstock affects the liquor level. So it's a contributing factor.

MR. KILLORY: I don't have any other questions at this time, David.

MR. MURPHY: Okay. We are adjourned, then.

THE VIDEO OPERATOR: We're going off the record. The time on the screen is 5:08:02. This ends the deposition and videotape number 3.

MR. MURPHY: I'm sorry, before we go off the record with the reporter, I don't know that we need the video for this, but I'm advised by my Virginia colleague that it's a custom and practice in Virginia to give the same instruction to the witness that Mr. Nunley has given in prior depositions, which is that a transcript will be prepared of this deposition; under the Virginia rules you have a right to review that transcript carefully and to sign it before it becomes the official record of this deposition.

You can waive that right. I would advise you that you not waive that right and that you avail yourself of your right to review your deposition transcript and to sign it. Do you

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want to do that?

THE WITNESS: Yes.

MR. KILLORY: Could we just -- I'm sure it's of no consequence. Is there a way we can record the fact that there is something in the transcript that's not on the video?

THE VIDEO OPERATOR: The tape is running.

MR. KILLORY: That takes care of the problem. There's no problem.

THE VIDEO OPERATOR: Now, this ends the videotape. The time on the screen is 5:09:09. We're going off the record.

(Time noted: 5:09 p.m.)

_____

DENISE R. DONAHER

Subscribed and sworn to before me this _____ day of _____, 1995.

_____

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C E R T I F I C A T E

STATE OF NEW YORK)
: ss.
COUNTY OF NEW YORK)

I, LEE A. BURSTEN, a Registered Professional Reporter and Notary Public within and for the State of New York, do hereby certify:

That DENISE R. DONAHER, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by the witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of June, 1995.

LEE A. BURSTEN, R.P.R.

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(**Donaher Exhibit 1** for identification, Nicotine transfer to smoke, investigations of Brazilian cigarettes and a review of some factors affecting nicotine transfer to smoke.)..... 66 11

(**Donaher Exhibit 2** for identification, memorandum from S.E. Medak and T.L. Skidmore to Mr. K.S. Burns, dated August 27, 1984.)..... 81 5

(**Donaher Exhibit 3** for identification, ART stems.)..... 142 12

(**Donaher Exhibit 4** for identification, test request form.)..... 146 25

(**Donaher Exhibit 5** for identification, test request form with pages attached.).. 151 7

(**Donaher Exhibit 6** for identification, request form dated 3/16/92.)..... 177 9

(**Donaher Exhibit 7** for identification, Park 500 RL processing lab shift technician T-3 training manual, first edition 1994.)..... 186 18

(**Donaher Exhibit 8** for identification, The Paper Making Process Language, Park 500 division of Philip Morris.)..... 189 10

2058449514

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(**Donaher Exhibit 9** for identification, C&I closeout report.)..... 193 23
(**Donaher Exhibit 10** for identification, Broke refeed chart.)..... 199 9
(**Donaher Exhibit 11** for identification, Park 500 Inter-office correspondence from D. Barfield, T. Bullock, B. Estes, C. Spellmeyer.)..... 206 23
(**Donaher Exhibit 12** for identification, Q 500 Park 500 section 6, the line 1/2 SPC system.)..... 217 24
(**Donaher Exhibit 13** for identification, Test request form, production quality and technical services.)..... 222 11
(**Donaher Exhibit 14** for identification, test request form dated August 12, 1993 .)..... 223 19
(**Donaher Exhibit 15** for identification, document Bates stamped PA 403521 through PA 403527.)..... 230 8
(**Donaher Exhibit 16** for identification, memo on pad stationery of David Barfield.)..... 236 23

2058449515

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05:08:46 want to do that?

05:08:46 THE WITNESS: Yes.

05:08:48 MR. KILLORY: Could we just -- I'm

05:08:52 sure it's of no consequence. Is there a way we

05:08:54 can record the fact that there is something in

05:08:54 the transcript that's not on the video?

05:08:58 THE VIDEO OPERATOR: The tape is

05:08:58 running.

05:09:00 MR. KILLORY: That takes care of the

05:09:00 problem. There's no problem.

05:09:02 THE VIDEO OPERATOR: Now, this ends

5:09:04 the videotape. The time on the screen is

05:09:04 5:09:09. We're going off the record.

05:11:34 (Time noted: 5:09 p.m.)

Denise R Donaher

DENISE R. DONAHER

Subscribed and sworn to before me

this 24th day of July, 1995.

Wendy S Swan

My commission expires 1-31-97

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ERRATA SHEET

Corrections or changes to the deposition testimony of:

DENISE R. DONAHER

Page	Line	Correction
9	9	From "or" to "and"
18	2	"Some kind of" to "something like a"
18	8	From "at" to "on"
21	16	From "That was vague and ambiguous" to "You thought that was too vague and ambiguous."
21	16-17	From "I'm now trying to determine" to "So, I'm trying to narrow"
24	14	From "for" to "of"
34	5-6	From "You mean in addition to Dick Uhl?" to "These are in addition to Dick Uhl."
42	18	After "your questions" Insert "Ted"
42	20	Change "the" to "from"
42	20	Before "you know" insert "I think .."
42	23	Add "David" after "deposition"
42	23-24	From "where if questions are asked generally or specifically" to "with the kind of questions, where if it's asked generally or asked specifically."
43	2	From "if she understands" to "whether you understand."
44	20-21	From "foundation" to "lack of foundation"
44	23	From "of" to "for"
45	5	Change "allowed" to "permitted"

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ERRATA SHEET

Corrections or changes to the deposition testimony of:

DENISE R. DONAHER

Page	Line	Correction
47	15	From "my" to "the"
47	22	From "at" to "in"
50	13	Change "and" to "or"
60	10	From "yield" to "the yield"
61	15-16	From "If chronologically helps" to "If chronologically helps that's fine, if there's any other way of organizing it."
61	22	From "ones" to "ones that"
65	16	From "relevant" to "relative"
73	17	Before "I'm" insert "that"
78	12	From "how" to "what"
84	4	From "who" to "what"
101	17	From "of the" to "other"
101	21	Delete "which"
104	18	From "818335" to "918335"
106	13	From "2020" to "020"
108	10	Delete "him"
108	25	From "2026" to "026"
112	15	From "2029" to "029"
117	5	Change "level" to "role"
118	9	From "0444" to "044"
120	7	Change "of all" to "full"

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Denise R Donaher

Denise R. Donaher

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ERRATA SHEET

Corrections or changes to the deposition testimony of:

DENISE R. DONAHER

Page	Line	Correction
124	8	From "then" to "within"
124	19	From "any" to "anyone"
126	2	From "of" to "in"
133	11	From "or" to "for"
134	11	Change "nicotine level of" to "level of nicotine in"
140	11	From "her" to "the"
147	22	From "S-P-I-C-H-E-I-M" to "S-P-E-I-C-H-E-I-M"
149	24	From "exited from the press as cake" to "exited as cake from the press."
150	2	Change "highcore" to "Hycor"
151	5	Add "if" before it
151	17	Change 20314180084 to 2031410084
151	24-25	Change "as well. Is that correct?" to "Is that correct as well"
152	8	Change "high core" to "Hycor"
155	15	From "there" to "that there"
155	22	From "any" to "them"
155	25	From "question" to "test"
161	7	Change "wash" to "washed"
168	9	Change "well" to "'when"
169	17-18	From "interrupt me" to "speak"

2058449519

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ERRATA SHEET

Corrections or changes to the deposition testimony of:

DENISE R. DONAHER

Page	Line	Correction
174	17	From "remember" to "know"
178	3	From "had" to "recall"
193	14	Change "say" to "state"
194	24	Change "to" to "by"
194	24	From "was" to "is"
196	21	From "do" to "did"
197	6	Change "blobs" to "lots"
197	22	Change "in" to "into"
198	16	From "designing" to "assigned"
199	6	From "in" to "into"
200	16	From "pulp" to "pulper"
201	18	Change "ends" to "ends up"
202	12	From "Semi-Works" to "R&D Semi-Works"
205	18	Add "as" before acceptable
213	25	From "any other" to "whatever other"
214	20	From "risk" to "rest"
218	24	From "are you not referring to additives" to "what are you referring to by additives?"
220	21	Add "There are two notes." before sentence beginning with "The first item says . . . ."
222	23	From "James" to "Jimmy"
224	19	Delete "some"

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Denise R. Donaher

Denise R. Donaher

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ERRATA SHEET

Corrections or changes to the deposition testimony of:

DENISE R. DONAHER

Page	Line	Correction
224	23	Delete "more"
227	11	From "I had" to "would have"
234	6	Change "refine" to "refined"
234	17	Add "is not a press" after the word fourdriener
234	20	From "that" to "that exchange."
235	12	From "pulp" to "pulper"
236	2	From "and" to "in"
236	11	From "and" to "in"
236	14	From "cleaner" to "cleaners"
236	14	From "the" to "liquor"

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